

FILED 11 FEB 17 08:15 USDC ORE

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON  
EUGENE DIVISION

GREGORY PAUL SNIDER,

Plaintiff,

Civil No. 10-1415-TC

v.

FINDINGS AND  
RECOMMENDATION

MCMINNVILLE POLICE DEPT.,  
et al.,

Respondent.

COFFIN, Magistrate Judge.

Plaintiff, an inmate at the Yamhill County Jail filed an application to proceed in forma pauperis (#4) which did not authorize the payment of the filing fee through deductions from plaintiff's inmate trust account.

By Order (#5) entered December 23, 2010, plaintiff was advised that pursuant to the Deficit Reduction Act of 2005, the filing fee for a civil action is \$350, and that should he wish to proceed with this case, he should notify the court

within 30 days of the date of this order whether or not he authorizes the withdrawal of the full filing fee of \$350 from his inmate trust account.

Plaintiff has not responded to the court's order. This proceeding should be dismissed for failure to prosecute.

This recommendation is not an order that is immediately appealable to the Ninth Circuit Court of Appeals. Any notice of appeal pursuant to Rule 4(a)(1), Federal Rules of Appellate Procedure, should not be filed until entry of the district court's judgment or appealable order. The parties shall have fourteen (14) days from the date of service of a copy of this recommendation within which to file specific written objections with the court. Thereafter, the parties have fourteen (14) days within which to file a response to the objections. Failure to timely file objections to any factual determinations of the Magistrate Judge will be considered a waiver of a party's right to de novo consideration of the factual issues and will constitute a waiver of a party's right to appellate review of the findings of fact in an order or judgment entered pursuant to the Magistrate Judge's recommendation.

### ***Certificate of Appealability***

***Should petitioner appeal, a certificate of appealability should be denied as petitioner has not made a substantial showing of the denial of a constitutional right. See, 28***

U.S.C. § 2253(c)(2).

DATED this 16<sup>th</sup> day of February, 2011.



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Thomas M. Coffin  
United States Magistrate Judge